

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EPAK INTERNATIONAL, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 3:08CV684-N
	§	
PEAK INTERNATIONAL, LTD.;	§	
PEAK INTERNATIONAL, INC.; AND	§	JURY DEMANDED
DAEWON SEMICONDUCTOR	§	
PACKAGING INDUSTRIAL	§	
COMPANY, LTD.	§	
	§	
Defendants.	§	

PLAINTIFF’S SECOND AMENDED COMPLAINT

I. INTRODUCTION

1. This is an action for patent infringement by the Plaintiff ePAK International, Inc. (“ePAK”) against the Defendants Peak International, Ltd.; Peak International, Inc.; and Daewon Semiconductor Packaging Industrial Company, Ltd (“Defendants”) pursuant to Title 35 of the United States Code.

II. PARTIES

2. ePAK is a Texas corporation having a principal place of business at 4926 Spicewood Springs, Austin, Texas 78759. ePAK is engaged in the business of designing, manufacturing, marketing and selling semiconductor and electronics shipping and handling products including integrated circuit component carriers.

3. Upon information and belief, Defendant Peak International, Ltd. has a place of business at 3432 Greystone Dr., Austin, Texas 78731. Upon information and belief, Peak

International, Ltd. has engaged in manufacturing, marketing and selling semiconductor and electronics shipping and handling products including integrated circuit component carriers.

4. Upon information and belief, Defendant Peak International, Inc. has a place of business at 3432 Greystone Dr., Austin, Texas 78731 and is a wholly owned subsidiary of Peak International, Ltd. Upon information and belief, Peak International, Inc. has engaged in manufacturing, marketing and selling semiconductor and electronics shipping and handling products including integrated circuit component carriers. Peak International, Inc. may be served with summons and a copy of this complaint by serving its Registered Agent, David R. Montpas, at 10101 Reunion Mace, Suite 600, San Antonio, Texas 78216.

5. Upon information and belief, Daewon Semiconductor Packaging Industrial Company, Ltd is a Korean company that is subject to common ownership and control with Peak International, Ltd and Peak International, Inc. Upon information and belief, Daewon Semiconductor Packaging Industrial Company, Ltd has engaged in manufacturing, marketing, and selling of semiconductor and electronics shipping and handling products including integrated circuit component carriers.

III. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338(a) and principles of pendent jurisdiction.

7. Venue is proper in this District under 28 U.S.C. 5 1391(c) as, on information and belief, Defendants have transacted business and committed acts of infringement in this District and this action arises from the transaction of that business and from that infringement.

IV. FACTUAL ALLEGATIONS

8. ePAK is the owner by assignment of United States Patent No. 6,809,936 (“ePAK’s patent”), entitled “Integrated Circuit Component Carrier With Angled Supporting And Retaining Surfaces,” which was issued on October 26, 2004. A true and correct copy of ePAK’s patent is attached hereto as “Exhibit A.”

V. CAUSE OF ACTION

COUNT I
(PATENT INFRINGEMENT)

9. ePAK re-alleges and incorporates by reference paragraphs 1 through 8 as if fully set forth here.

10. Defendants have infringed and are infringing ePAK’s patent by at least one of making, using, selling, offering to sell and importing integrated circuit component carriers having angled supporting and retaining surfaces, including but not limited to at least one of Peak’s products having designations NXBG23230.6105126, NHBG12121.508203, and NHBG16161.406153; and Daewon’s products having designations 14B-0709-D19, T0803007, 500056409, 500091679.

11. Defendants have induced and are inducing infringement of ePAK’s patent by at least one of making, using, selling, offering to sell and importing integrated circuit component carriers having angled supporting and retaining surfaces, including but not limited to at least one of Peak’s products having designations NXBG23230.6105126, NHBG12121.508203, and NHBG16161.406153; and Daewon’s products having designations 14B-0709-D19, T0803007, 500056409, 500091679.

12. Defendants have been and are contributory infringers of ePAK's patent by at least one of selling, offering to sell and importing integrated circuit component carriers having angled supporting and retaining surfaces, including but not limited to at least one of Peak's products having designations NXBG23230.6105126, NHBG12121.508203, and NHBG16161.406153; and Daewon's products having designations 14B-0709-D19, T0803007, 500056409, 500091679.

13. Upon information and belief, Defendants' infringement has been and continues to be willful and deliberate.

14. As a result of Defendants' infringement, ePAK has suffered substantial damages and will suffer severe and irreparable harm unless infringement is enjoined by this Court.

VI. JURY DEMAND

15. In accordance with Federal Rule 38(b), ePAK demands a trial by jury on all issues so triable.

VII. PRAYER FOR RELIEF

WHEREFORE, ePAK requests that this Court enter judgment:

- a. Adjudging that Defendants have and continue to infringe, to induce infringement and to be contributory infringers of ePAK's patent and that such infringement, inducement to infringe and contributory infringement have been willful and deliberate;
- b. Enjoining Defendants, its officers, directors, employees, agents, licensees, successors, assigns and all persons in concert with them, from further infringement, inducement to infringe and contributory infringement of ePAK's patent;

- c. Awarding ePAK compensatory damages caused by Defendants' infringement, inducement to infringe, and contributory infringement of ePAK's patent plus pre-judgment and post-judgment interest accrued on such amounts as provided by law;
- d. Trebling the damages assessed against Defendants pursuant to 35 U.S.C. § 284;
- e. Awarding ePAK its costs and expenses of this litigation, including reasonable attorney's fees and disbursements pursuant to 35 U.S.C. 5 285; and
- f. Awarding ePAK such further relief as the Court deems just and proper.

Dated: December 4, 2008.

Respectfully submitted by:

/s/ Darin M. Klemchuk
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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

On the 4th day of December, 2008, I electronically filed the foregoing document with the U.S. District Clerk for Northern District of Texas, using the electronic case filing (ECF) system of the court. The ECF system will send a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept the Notice as service of this document by electronic means:

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/s/ Darin M. Klemchuk
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